

By: Nichols, et al.

S.B. No. 614

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Finance
3 Commission of Texas, the Texas Department of Banking, and the
4 Department of Savings and Mortgage Lending and to the regulation of
5 certain financial institutions and businesses.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 11.108, Finance Code, is amended to read
8 as follows:

9 Sec. 11.108. SUNSET PROVISION. The finance commission is
10 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
11 continued in existence as provided by that chapter, the commission
12 is abolished September 1, 2031 [~~2019~~].

13 SECTION 2. Section 11.110, Finance Code, is amended by
14 adding Subsection (d) to read as follows:

15 (d) The commissioner of each finance agency shall create a
16 training manual that includes the information required by
17 Subsection (b) applicable to that commissioner's agency. The
18 commissioner of each finance agency shall distribute a copy of the
19 training manual created under this subsection annually to each
20 member of the finance commission. Each member of the finance
21 commission shall sign and submit to the appropriate commissioner a
22 statement acknowledging that the member received and has reviewed
23 the training manual.

24 SECTION 3. Subchapter B, Chapter 11, Finance Code, is

1 amended by adding Section 11.113 to read as follows:

2 Sec. 11.113. ADVISORY COMMITTEES. (a) The finance
3 commission may appoint advisory committees to assist the finance
4 commission in performing its duties.

5 (b) The finance commission shall specify each committee's
6 purpose, powers, and duties and shall require each committee to
7 report to the finance commission in the manner specified by the
8 finance commission concerning the committee's activities and the
9 results of its work.

10 SECTION 4. Section 11.202(b), Finance Code, is amended to
11 read as follows:

12 (b) The Texas Department of Banking may employ a hearings
13 officer to serve the finance agencies as determined by interagency
14 agreement. For the purposes of Section 2003.021, Government Code,
15 a hearings officer employed under this section is considered to be
16 an employee of each agency for which hearing services are provided.
17 The hearings officer's only duty is to preside over matters related
18 to contested cases before a finance agency [~~or the finance~~
19 ~~commission~~].

20 SECTION 5. Section 12.108, Finance Code, is amended to read
21 as follows:

22 Sec. 12.108. CONSUMER INFORMATION AND COMPLAINTS. (a) The
23 department [banking commissioner] shall maintain a system to
24 promptly and efficiently act on complaints filed with the
25 department. The department shall maintain information about
26 parties to the complaint, the subject matter of the complaint, a
27 summary of the results of the review or investigation of the

1 complaint, and its disposition~~+~~

2 ~~[(1) prepare information of consumer interest~~
3 ~~describing.~~

4 ~~[(A) the regulatory functions of the department,~~
5 ~~and~~

6 ~~[(B) the department's procedures by which~~
7 ~~consumer complaints are filed with and resolved by the department,~~
8 ~~and~~

9 ~~[(2) make the information available to the public and~~
10 ~~appropriate state agencies].~~

11 (b) The department shall make information available
12 describing its procedures for complaint investigation and
13 resolution ~~[maintain a file on each written complaint filed with~~
14 ~~the department. The file must include:~~

15 ~~[(1) the name of the person who filed the complaint,~~

16 ~~[(2) the date the complaint is received by the~~
17 ~~department,~~

18 ~~[(3) the subject matter of the complaint,~~

19 ~~[(4) the name of each person contacted in relation to~~
20 ~~the complaint,~~

21 ~~[(5) a summary of the results of the review or~~
22 ~~investigation of the complaint, and~~

23 ~~[(6) an explanation of the reason the file was~~
24 ~~closed].~~

25 (c) The department shall periodically notify the complaint
26 parties of the status of the complaint until final disposition
27 ~~[provide to the person filing the complaint and to each person who~~

1 ~~is a subject of the complaint a written summary of the department's~~
2 ~~policies and procedures relating to complaint investigation and~~
3 ~~resolution].~~

4 SECTION 6. Section 12.109, Finance Code, is amended to read
5 as follows:

6 Sec. 12.109. SUNSET PROVISION. The office of banking
7 commissioner is subject to Chapter 325, Government Code (Texas
8 Sunset Act). Unless continued in existence as provided by that
9 chapter, the office is abolished September 1, 2031 [2019].

10 SECTION 7. Subchapter B, Chapter 12, Finance Code, is
11 amended by adding Sections 12.113 and 12.114 to read as follows:

12 Sec. 12.113. ALTERNATIVE RULEMAKING AND DISPUTE
13 RESOLUTION. (a) The finance commission by rule shall develop a
14 policy to encourage the use of:

15 (1) negotiated rulemaking procedures under Chapter
16 2008, Government Code, for the adoption of rules by the finance
17 commission applicable to the department; and

18 (2) appropriate alternative dispute resolution
19 procedures under Chapter 2009, Government Code, to assist in the
20 resolution of internal and external disputes under the department's
21 jurisdiction.

22 (b) The procedures applicable to the department relating to
23 alternative dispute resolution must conform, to the extent
24 possible, to any model guidelines issued by the State Office of
25 Administrative Hearings for the use of alternative dispute
26 resolution by state agencies.

27 (c) The department shall:

1 (1) coordinate the implementation of the policy
2 adopted under Subsection (a);

3 (2) provide training as needed to implement the
4 procedures for negotiated rulemaking or alternative dispute
5 resolution; and

6 (3) collect data concerning the effectiveness of those
7 procedures.

8 Sec. 12.114. ADVISORY COMMITTEES. (a) The banking
9 commissioner may appoint advisory committees to assist the
10 department and banking commissioner in performing their duties.

11 (b) The banking commissioner shall specify each committee's
12 purpose, powers, and duties and shall require each committee to
13 report to the banking commissioner or department in the manner
14 specified by the banking commissioner concerning the committee's
15 activities and the results of its work.

16 SECTION 8. Sections 13.011(a), (b), and (c), Finance Code,
17 are amended to read as follows:

18 (a) The Department of Savings and Mortgage Lending [~~savings~~
19 ~~and mortgage lending commissioner~~] shall maintain a system to
20 promptly and efficiently act on complaints filed with that
21 department. The Department of Savings and Mortgage Lending shall
22 maintain information about parties to the complaint, the subject
23 matter of the complaint, a summary of the results of the review or
24 investigation of the complaint, and its disposition [~~prepare~~
25 ~~information of consumer interest describing.~~

26 [~~(1) the regulatory functions of the Department of~~
27 ~~Savings and Mortgage Lending; and~~

1 ~~[(2) the procedures by which consumer complaints are~~
2 ~~filed with and resolved by the Department of Savings and Mortgage~~
3 ~~Lending].~~

4 (b) The Department of Savings and Mortgage Lending shall
5 make information ~~[under Subsection (a) must be made]~~ available
6 describing its procedures for complaint investigation and
7 resolution ~~[to the public and appropriate state agencies].~~

8 (c) The Department of Savings and Mortgage Lending shall
9 periodically notify the complaint parties of the status of the
10 complaint until final disposition ~~[maintain a file on each written~~
11 ~~complaint filed with the Department of Savings and Mortgage~~
12 ~~Lending. The file must include:~~

- 13 ~~[(1) the name of the person who filed the complaint,~~
14 ~~[(2) the date the complaint is received by the~~
15 ~~Department of Savings and Mortgage Lending,~~
16 ~~[(3) the subject matter of the complaint,~~
17 ~~[(4) the name of each person contacted in relation to~~
18 ~~the complaint,~~
19 ~~[(5) a summary of the results of the review or~~
20 ~~investigation of the complaint, and~~
21 ~~[(6) an explanation of the reason the file was closed,~~
22 ~~if the agency closed the file without taking action other than to~~
23 ~~investigate the complaint].~~

24 SECTION 9. Section 13.012, Finance Code, is amended to read
25 as follows:

26 Sec. 13.012. SUNSET PROVISION. The office of savings and
27 mortgage lending commissioner and the Department of Savings and

1 Mortgage Lending are subject to Chapter 325, Government Code (Texas
2 Sunset Act). Unless continued in existence as provided by that
3 chapter, the office and department are abolished September 1, 2031
4 [~~2019~~].

5 SECTION 10. Chapter 13, Finance Code, is amended by adding
6 Sections 13.017 and 13.018 to read as follows:

7 Sec. 13.017. ALTERNATIVE RULEMAKING AND DISPUTE
8 RESOLUTION. (a) The finance commission by rule shall develop a
9 policy to encourage the use of:

10 (1) negotiated rulemaking procedures under Chapter
11 2008, Government Code, for the adoption of rules by the finance
12 commission applicable to the Department of Savings and Mortgage
13 Lending; and

14 (2) appropriate alternative dispute resolution
15 procedures under Chapter 2009, Government Code, to assist in the
16 resolution of internal and external disputes under the Department
17 of Savings and Mortgage Lending's jurisdiction.

18 (b) The procedures applicable to the Department of Savings
19 and Mortgage Lending relating to alternative dispute resolution
20 must conform, to the extent possible, to any model guidelines
21 issued by the State Office of Administrative Hearings for the use of
22 alternative dispute resolution by state agencies.

23 (c) The Department of Savings and Mortgage Lending shall:

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) provide training as needed to implement the
27 procedures for negotiated rulemaking or alternative dispute

1 resolution; and

2 (3) collect data concerning the effectiveness of those
3 procedures.

4 Sec. 13.018. ADVISORY COMMITTEES. (a) The savings and
5 mortgage lending commissioner may appoint advisory committees to
6 assist the Department of Savings and Mortgage Lending and savings
7 and mortgage lending commissioner in performing their duties.

8 (b) The savings and mortgage lending commissioner shall
9 specify each committee's purpose, powers, and duties and shall
10 require each committee to report to the savings and mortgage
11 lending commissioner or Department of Savings and Mortgage Lending
12 in the manner specified by the savings and mortgage lending
13 commissioner concerning the committee's activities and the results
14 of its work.

15 SECTION 11. Sections 31.202 and 31.204, Finance Code, are
16 amended to read as follows:

17 Sec. 31.202. APPEAL OF BANKING COMMISSIONER DECISION OR
18 ORDER. Except as expressly provided otherwise by this subtitle, an
19 appellant may appeal a decision or order of the banking
20 commissioner made under this subtitle or Chapter 12 after a hearing
21 [~~directly~~] to a district court in [~~the District Court of~~] Travis
22 County as provided by Section 31.204 [~~or, at the option of the~~
23 ~~appellant, to the finance commission for review~~].

24 Sec. 31.204. [~~DIRECT~~] APPEAL TO DISTRICT COURT [~~OR APPEAL~~
25 ~~OF FINANCE COMMISSION ORDER~~]. A person affected by a final order of
26 the banking commissioner [~~who elects to appeal directly to district~~
27 ~~court, or a person affected by a final order of the finance~~

1 ~~commission under this chapter,~~] may appeal the final order by
2 filing a petition for judicial review in a district court in [~~the~~
3 ~~District Court of~~] Travis County as provided by Chapter 2001,
4 Government Code. A petition for judicial review filed in the
5 district court does not stay or vacate the appealed order unless the
6 court, after notice and hearing, expressly stays or vacates the
7 order.

8 SECTION 12. Section 32.009(d), Finance Code, is amended to
9 read as follows:

10 (d) A state bank that is denied the requested right or
11 privilege to engage in an activity by the banking commissioner
12 under this section may appeal as provided by Sections 31.202 [~~7~~
13 ~~31.203,~~] and 31.204 or may resubmit a letter under this subsection
14 with additional information or authority relevant to the banking
15 commissioner's determination. A denial is immediately final for
16 purposes of appeal.

17 SECTION 13. Section 32.010(d), Finance Code, is amended to
18 read as follows:

19 (d) A state bank that is denied the requested power by the
20 banking commissioner under this section may appeal as provided by
21 Sections 31.202 [~~7~~ ~~31.203,~~] and 31.204 or may resubmit a letter
22 under this section with additional information or authority
23 relevant to the banking commissioner's determination. A denial is
24 immediately final for purposes of appeal.

25 SECTION 14. Section 35.0035(g), Finance Code, is amended to
26 read as follows:

27 (g) After the hearing, the banking commissioner may affirm,

1 modify, or set aside, in whole or in part, the order. An order
2 affirming or modifying the order is immediately final for purposes
3 of enforcement and appeal. The order may be appealed as provided by
4 Sections 31.202 [~~31.203~~] and 31.204.

5 SECTION 15. Section 35.004(c), Finance Code, is amended to
6 read as follows:

7 (c) An order issued under this section is immediately final
8 for purposes of enforcement and appeal. The order may be appealed
9 as provided by Sections 31.202 [~~31.203~~] and 31.204.

10 SECTION 16. Section 35.005(e), Finance Code, is amended to
11 read as follows:

12 (e) After the hearing, the banking commissioner may affirm,
13 modify, or set aside in whole or part the emergency order. An order
14 affirming or modifying the emergency order is immediately final for
15 purposes of enforcement and appeal. The order may be appealed as
16 provided by Sections 31.202 [~~31.203~~] and 31.204.

17 SECTION 17. Section 35.104(c), Finance Code, is amended to
18 read as follows:

19 (c) An order issued under Subsection (b) is immediately
20 final for purposes of appeal. The order may be appealed as provided
21 by Sections 31.202 [~~31.203~~] and 31.204.

22 SECTION 18. Section 35.110(d), Finance Code, is amended to
23 read as follows:

24 (d) After the hearing, the banking commissioner may affirm,
25 modify, or set aside in whole or part the prior ruling. An order
26 supporting the action contested by the board is immediately final
27 for purposes of appeal. The order may be appealed as provided by

1 Sections 31.202 [~~31.203~~] and 31.204. [~~If the order is appealed~~
2 ~~to the finance commission, the finance commission may:~~

3 [~~(1) affirm, terminate, or modify the order,~~

4 [~~(2) continue or end supervision or conservatorship,~~

5 ~~and~~

6 [~~(3) order further relief as justice, equity, and~~
7 ~~protection of depositors, creditors, and the public require.]~~

8 SECTION 19. Sections 154.104(a) and (b), Finance Code, are
9 amended to read as follows:

10 (a) The commission by rule shall prescribe the term of a [A]
11 permit [is] issued under this subchapter [for a one-year term].

12 (b) If the commission prescribes the term of a permit issued
13 under this subchapter for a period other than one year, the [The]
14 commission shall prorate the fee required under this subchapter as
15 necessary to reflect the term of the permit [by rule may adopt a
16 system under which permits expire on various dates during the
17 year].

18 SECTION 20. Section 154.415(f), Finance Code, is amended to
19 read as follows:

20 (f) An order issued under Subsection (e) is immediately
21 final for purposes of enforcement and appeal. The order may be
22 appealed as provided by Sections 31.202 [~~31.203~~] and 31.204.

23 SECTION 21. Section 157.012(c), Finance Code, is amended to
24 read as follows:

25 (c) To be eligible to be licensed as a residential mortgage
26 loan originator, the individual, in addition to meeting the
27 requirements of Subsection (a), must:

1 (1) satisfy the commissioner as to [~~the individual's~~
2 ~~good moral character, including~~] the individual's honesty,
3 trustworthiness, and integrity;

4 (2) not be in violation of this chapter, Chapter 180,
5 or any rules adopted under this chapter or Chapter 180;

6 (3) provide the commissioner with satisfactory
7 evidence that the individual meets the qualifications provided by
8 Chapter 180; and

9 (4) be a citizen of the United States or a lawfully
10 admitted alien.

11 SECTION 22. Sections 181.202 and 181.204, Finance Code, are
12 amended to read as follows:

13 Sec. 181.202. APPEAL OF BANKING COMMISSIONER DECISION OR
14 ORDER. Except as expressly provided otherwise by this subtitle, a
15 person affected by a decision or order of the banking commissioner
16 made under this subtitle after a hearing may appeal the decision or
17 order [~~+~~

18 [~~(1) to the finance commission, or~~
19 [~~(2) directly~~] to a district court in Travis County as
20 provided by Section 181.204.

21 Sec. 181.204. [~~DIRECT~~] APPEAL TO DISTRICT COURT [~~OR APPEAL~~
22 ~~OF FINANCE COMMISSION ORDER~~]. A person affected by a final order of
23 the banking commissioner [~~who elects to appeal directly to district~~
24 ~~court, or a person affected by a final order of the finance~~
25 ~~commission under this subchapter,~~] may appeal the final order by
26 filing a petition for judicial review as provided by Chapter 2001,
27 Government Code. A petition for judicial review filed in the

1 district court does not stay or vacate the appealed order unless the
2 court, after notice and hearing, expressly stays or vacates the
3 order.

4 SECTION 23. Section 182.010(d), Finance Code, is amended to
5 read as follows:

6 (d) A state trust company that is denied the requested right
7 or privilege to engage in an activity by the banking commissioner
8 under this section may appeal as provided by Sections 181.202 and
9 181.204 [~~Sections 181.202-181.204~~] or may resubmit a letter under
10 this section with additional information or authority relevant to
11 the banking commissioner's determination. A denial is immediately
12 final for purposes of appeal.

13 SECTION 24. Section 185.0035(g), Finance Code, is amended
14 to read as follows:

15 (g) After the hearing, the banking commissioner may affirm,
16 modify, or set aside, in whole or in part, the order. An order
17 affirming or modifying the order is immediately final for purposes
18 of enforcement and appeal. The order may be appealed as provided by
19 Sections 181.202 [~~181.203~~] and 181.204.

20 SECTION 25. Section 185.004(c), Finance Code, is amended to
21 read as follows:

22 (c) An order issued under this section is immediately final
23 for purposes of enforcement and appeal. The order may be appealed
24 as provided by Sections 181.202 and 181.204 [~~Sections~~
25 ~~181.202-181.204~~].

26 SECTION 26. Section 185.005(e), Finance Code, is amended to
27 read as follows:

1 (e) After the hearing, the banking commissioner may affirm,
2 modify, or set aside in whole or part the emergency order. An order
3 affirming or modifying the order is immediately final for purposes
4 of enforcement and appeal. The order may be appealed as provided by
5 Sections 181.202 and 181.204 [~~Sections 181.202-181.204~~].

6 SECTION 27. Section 185.104(c), Finance Code, is amended to
7 read as follows:

8 (c) An order issued under Subsection (b) is immediately
9 final for purposes of appeal. The order may be appealed as provided
10 by Sections 181.202 and 181.204 [~~Sections 181.202-181.204~~].

11 SECTION 28. Section 185.110(d), Finance Code, is amended to
12 read as follows:

13 (d) After the hearing, the banking commissioner may affirm,
14 modify, or set aside in whole or part the prior ruling. An order
15 supporting the action contested by the board is immediately final
16 for purposes of appeal. The order may be appealed as provided by
17 Sections 181.202 and 181.204 [~~Sections 181.202-181.204~~].

18 [~~If the order is appealed to the finance commission, the finance commission
19 may:~~

20 [~~(1) affirm, terminate, or modify the order,~~

21 [~~(2) continue or end supervision or conservatorship,~~

22 ~~and~~

23 [~~(3) order further relief as justice, equity, and~~

24 ~~protection of clients, creditors, and the public require.]~~

25 SECTION 29. Section 187.305(a), Finance Code, is amended to
26 read as follows:

27 (a) If the banking commissioner determines that an

1 out-of-state trust company has violated this subtitle or other
2 applicable law of this state, the banking commissioner may take all
3 enforcement actions the banking commissioner would be empowered to
4 take if the out-of-state trust company were a state trust company,
5 except that the banking commissioner shall promptly give notice to
6 the home state regulator of each enforcement action to be taken
7 against an out-of-state trust company and, to the extent
8 practicable, shall consult and cooperate with the home state
9 regulator in pursuing and resolving the enforcement action. An
10 out-of-state trust company may appeal a final order or other
11 decision of the banking commissioner under this subtitle as
12 provided by Sections 181.202 and 181.204 [~~Sections~~
13 ~~181.202-181.204~~].

14 SECTION 30. Section 201.009, Finance Code, is amended to
15 read as follows:

16 Sec. 201.009. ENFORCEMENT; APPEALS. (a) If the
17 commissioner determines that a bank holding company or a foreign
18 bank has violated this subtitle or other applicable law of this
19 state, the commissioner may take any enforcement action the
20 commissioner would be empowered to take if the bank holding company
21 or foreign bank were a Texas state bank, except that the
22 commissioner shall promptly give notice to the home state regulator
23 of each enforcement action taken against an out-of-state bank
24 holding company or foreign bank and, to the extent practicable,
25 shall consult and cooperate with the home state regulator in
26 pursuing and resolving the enforcement action. A bank holding
27 company or foreign bank may appeal a final order or other decision

1 of the commissioner under this subtitle as provided by Sections
2 31.202 [~~31.203~~] and 31.204.

3 (b) If the commissioner determines that an interstate
4 branch maintained by an out-of-state state bank in this state is
5 being operated in violation of a law of this state that is
6 applicable to the branch under Section 24(j), Federal Deposit
7 Insurance Act (12 U.S.C. Section 1831a(j)), including a law that
8 governs community reinvestment, fair lending, or consumer
9 protection, the commissioner, with written notice to the home state
10 regulator and subject to the terms of any applicable cooperative
11 agreement with the home state regulator, may take any enforcement
12 action the commissioner would be empowered to take if the branch
13 were a Texas state bank or state savings bank, as the case may be.
14 An out-of-state state bank may appeal a final order or other
15 decision of the commissioner under this subtitle as provided by
16 Sections 31.202 [~~31.203~~] and 31.204, or as provided under
17 Subtitle C with respect to a state savings bank.

18 SECTION 31. Section 204.119, Finance Code, is amended to
19 read as follows:

20 Sec. 204.119. STATUS OF REVOKED LICENSE. Unless stayed by
21 the [~~finance commissioner or~~] district court that has jurisdiction
22 over an appeal, a final order of the commissioner revoking a license
23 is effective immediately and the foreign bank shall immediately
24 cease all activity in this state requiring a license. Subject to
25 Section 204.120, all functions requiring a license must be
26 immediately transferred to a branch, affiliate, or agency of the
27 foreign bank that is located outside of this state and that has the

1 power to perform those functions under governing law. Continued
2 activity in this state of an unlicensed foreign bank is subject to
3 Subchapter C, Chapter 35.

4 SECTION 32. Section 396.001(7), Finance Code, is amended to
5 read as follows:

6 (7) "Private child support enforcement agency" means
7 an individual or nongovernmental entity who engages in the
8 enforcement of child support ordered by a court or other tribunal
9 for a fee or other consideration. The term includes a foreign
10 agency. The term does not include:

11 (A) an attorney enforcing a child support
12 obligation on behalf of, and in the name of, a client unless the
13 attorney has an employee who is not an attorney and who on behalf of
14 the attorney:

15 (i) regularly solicits for child support
16 enforcement; or

17 (ii) regularly contacts child support
18 obligees or obligors for the purpose of child support enforcement;

19 (B) a state agency designated to serve as the
20 state's Title IV-D agency in accordance with Part D, Title IV,
21 Social Security Act (42 U.S.C. Section 651 et seq.), as amended; or

22 (C) a contractor awarded a contract to engage in
23 child support enforcement on behalf of a governmental agency,
24 including a contractor awarded a contract[+]

25 [~~(i)~~ under Chapter 236, Family Code, or

26 [~~(ii)~~] by a political subdivision of this

27 or another state that is authorized by law to enforce a child

1 support obligation.

2 SECTION 33. The heading to Subchapter B, Chapter 396,
3 Finance Code, is amended to read as follows:

4 SUBCHAPTER B. [~~POWERS AND~~] DUTIES OF DEPARTMENT

5 SECTION 34. Sections 396.202(a) and (b), Finance Code, are
6 amended to read as follows:

7 (a) A private child support enforcement [~~registered~~] agency
8 shall maintain records of all child support collections made on
9 behalf of, and disbursed to, a client who is an obligee, including:

10 (1) the name of any obligor who made child support
11 payments collected by the agency;

12 (2) the amount of support collected by the agency for
13 each client, including:

14 (A) the date on which the amount was collected;
15 and

16 (B) the date on which each amount due the client
17 by the obligor was paid to the client;

18 (3) a copy of the order establishing the child support
19 obligation under which a collection was made by the agency; and

20 (4) any other pertinent information relating to the
21 child support obligation, including any case, cause, or docket
22 number of the court having jurisdiction over the matter.

23 (b) The records required under this section must be updated
24 at least monthly and must be maintained by the private child support
25 enforcement [~~registered~~] agency for a period of four years from the
26 date of the last support payment collected by the agency on behalf
27 of an obligee.

1 SECTION 35. Section 396.203(a), Finance Code, is amended to
2 read as follows:

3 (a) A private child support enforcement [~~registered~~] agency
4 [~~and foreign agency authorized to engage in business under this~~
5 ~~chapter~~] shall execute a written contract for the enforcement of
6 child support for each client of the agency that is residing in this
7 state.

8 SECTION 36. Sections 396.251(a) and (b), Finance Code, are
9 amended to read as follows:

10 (a) In enforcing a child support obligation, a private child
11 support enforcement [~~registered~~] agency may not use threats,
12 coercion, or attempts to coerce that employ any of the following
13 practices:

14 (1) using or threatening to use violence or other
15 criminal means to cause harm to an obligor or property of the
16 obligor;

17 (2) accusing falsely or threatening to accuse falsely
18 an obligor of a violation of state or federal child support laws;

19 (3) taking or threatening to take an enforcement
20 action against an obligor that is not authorized by law; or

21 (4) intentionally representing to a person that the
22 agency is a governmental agency authorized to enforce a child
23 support obligation.

24 (b) Subsection (a) does not prevent a private child support
25 enforcement [~~registered~~] agency from:

26 (1) informing an obligor that the obligor may be
27 subject to penalties prescribed by law for failure to pay a child

1 support obligation; or

2 (2) taking, or threatening to take, an action
3 authorized by law for the enforcement of a child support obligation
4 by the agency.

5 SECTION 37. Section 396.252, Finance Code, is amended to
6 read as follows:

7 Sec. 396.252. FRAUDULENT, DECEPTIVE, OR MISLEADING
8 REPRESENTATIONS. In enforcing a child support obligation, a
9 private child support enforcement [~~registered~~] agency or employee
10 of the agency may not:

11 (1) identify the [~~registered~~] agency by any name other
12 than one by which the agency is authorized to do business under the
13 laws of this state [~~registered with the department~~];

14 (2) falsely represent the nature of the child support
15 enforcement activities in which the agency is authorized by law to
16 engage; or

17 (3) falsely represent that an oral or written
18 communication is the communication of an attorney.

19 SECTION 38. Section 396.352(a), Finance Code, is amended to
20 read as follows:

21 (a) A private child support enforcement [~~registered~~] agency
22 that is located in another state or [~~a private child support~~
23 ~~enforcement agency~~] that engages in the business of child support
24 enforcement in this state in violation of this chapter is
25 considered to have submitted to the jurisdiction of the courts of
26 this state with respect to an action brought under this chapter.

27 SECTION 39. Section 711.001(6), Health and Safety Code, is

1 amended to read as follows:

2 (6) "Cemetery broker" means a person who sells the
3 exclusive right of sepulture for another person. The term does not
4 include a person who:

5 (A) is an officer, agent, or employee of the
6 cemetery organization in which the plot is located, acting at the
7 direction or under the control of the cemetery organization [~~and~~
8 ~~who is exempt from registration under Subchapter C-1~~]; or

9 (B) originally purchased the exclusive right of
10 sepulture for personal use.

11 SECTION 40. Section 711.012(a), Health and Safety Code, is
12 amended to read as follows:

13 (a) The Finance Commission of Texas may adopt rules to
14 enforce and administer [~~Subchapter C-1 and~~] Sections 711.003,
15 711.004, 711.007, 711.008, 711.0105, 711.021-711.024,
16 711.032-711.036, 711.038, 711.0381, 711.040-711.042, 711.052,
17 711.061, 711.063, and 711.064 relating to perpetual care
18 cemeteries.

19 SECTION 41. Section 711.038(e), Health and Safety Code, is
20 amended to read as follows:

21 (e) A person [~~who is an officer, agent, or employee of the~~
22 ~~cemetery organization or its affiliate and who is exempt from~~
23 ~~registration under Subchapter C-1~~] is not required to be licensed
24 or registered to sell a plot in a dedicated cemetery.

25 SECTION 42. Section 711.052(a), Health and Safety Code, is
26 amended to read as follows:

27 (a) A person who is an individual, firm, association,

1 corporation, or municipality, or an officer, agent, or employee of
2 an individual, firm, association, corporation, or municipality,
3 commits an offense if the person:

4 (1) engages in a business for cemetery purposes in
5 this state other than through a corporation organized for that
6 purpose, if a corporation is required by law;

7 (2) fails or refuses to keep records of interment as
8 required by Sections 711.003 and 711.004;

9 (3) sells, offers to sell, or advertises for sale a
10 plot or the exclusive right of sepulture in a plot for purposes of
11 speculation or investment;

12 (4) represents through advertising or printed
13 material that a retail department will be established for the
14 resale of the plots of plot purchasers, that specific improvements
15 will be made in the cemetery, or that specific merchandise or
16 services will be furnished to a plot owner, unless adequate funds or
17 reserves are created by the cemetery organization for the
18 represented purpose;

19 (5) makes more than one interment in a plot in a
20 cemetery operated by a cemetery organization other than as provided
21 by Section 711.0395;

22 (6) removes remains from a plot in a cemetery operated
23 by a cemetery organization without complying with Section 711.004;

24 (7) offers or receives monetary inducement to solicit
25 business for a cemetery broker; or

26 (8) fails or refuses to keep records of sales or
27 resales or to collect and remit fees as required by Section

1 711.0381[~~7 or~~

2 [~~(9) fails or refuses to register as a cemetery broker~~
3 ~~as required by Subchapter C-1]~~.

4 SECTION 43. Section 711.056(a), Health and Safety Code, is
5 amended to read as follows:

6 (a) If after a hearing conducted as provided by Chapter
7 2001, Government Code, the trier of fact finds that a violation of
8 this chapter or a rule of the Finance Commission of Texas
9 establishes a pattern of wilful disregard for the requirements of
10 this chapter or rules of the finance commission, the trier of fact
11 may recommend to the commissioner that the maximum administrative
12 penalty permitted under Section 711.055 be imposed on the person
13 committing the violation or that the commissioner cancel or not
14 renew[~~+~~

15 [~~(1) the person's registration under Subchapter C-1,~~
16 ~~if the person is registered under that subchapter, or~~

17 [~~(2)~~] the person's permit under Chapter 154, Finance
18 Code, if the person holds such a permit.

19 SECTION 44. Section 711.059(a), Health and Safety Code, is
20 amended to read as follows:

21 (a) The commissioner may issue an order to seize accounts in
22 which funds from the sale or resale of the exclusive right of
23 sepulture in a plot, including earnings, may be held and may issue
24 an order to seize the records that relate to the sale or resale of
25 the exclusive right of sepulture in a plot if the commissioner
26 finds, by examination or other credible evidence, that the person:

27 (1) failed to remit a fee in accordance with Section

1 711.0381;

2 (2) misappropriated, converted, or illegally withheld
3 or failed or refused to pay on demand money entrusted to the person
4 that belongs to a cemetery organization under an instrument of
5 conveyance; or

6 (3) refused to submit to examination by the
7 department[+]

8 [~~(4) was the subject of an order to cancel, suspend, or~~
9 ~~refuse a registration under Subchapter C-1; or~~

10 [~~(5) is required to register under Subchapter C-1 and~~
11 ~~is not registered or has transferred the ownership of the business~~
12 ~~that required registration to another person who is not~~
13 ~~registered].~~

14 SECTION 45. Sections 711.082(a) and (b), Health and Safety
15 Code, are amended to read as follows:

16 (a) The department shall administer Subchapter
17 [~~Subchapters] C [~~and C-1]~~ relating to cemetery brokers.~~

18 (b) The commission may adopt reasonable rules concerning:

19 (1) fees to defray the cost of administering
20 Subchapter [~~Subchapters] C [~~and C-1]~~;~~

21 (2) the retention and inspection of records relating
22 to the sale or resale of the exclusive right of sepulture in a plot;

23 (3) changes in the management or control of a cemetery
24 broker's business; and

25 (4) any other matter relating to the enforcement and
26 administration of Subchapter [~~Subchapters] C [~~and C-1]~~.~~

27 SECTION 46. Section 712.0036, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 712.0036. TERM OF CERTIFICATE OF AUTHORITY. (a) The
3 Finance Commission of Texas by rule shall prescribe the term of and
4 renewal procedures for a [An initial] certificate of authority
5 [expires March 1 of the year after the year the certificate is]
6 issued under this chapter~~[. The certificate must be renewed at~~
7 ~~that time and by March 1 of each following year].~~

8 (b) If the Finance Commission of Texas prescribes the term
9 of a certificate of authority issued under this chapter for a period
10 other than one year, the finance commission shall prorate any
11 applicable fees as necessary to reflect the term of the
12 certificate.

13 SECTION 47. Section 712.0037(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) As a condition of renewal, a certificate holder must
16 meet the qualifications and satisfy the requirements that apply to
17 an applicant for a new certificate of authority. Additionally, not
18 later than the certificate's ~~[annual]~~ renewal date, a certificate
19 holder shall:

20 (1) pay a ~~[an annual]~~ renewal fee in an amount
21 established by Finance Commission of Texas rule; and

22 (2) submit a renewal report under oath and in the form
23 and medium required by the commissioner that demonstrates that the
24 certificate holder meets the qualifications and requirements for
25 holding a certificate.

26 SECTION 48. The following laws are repealed:

27 (1) Sections 13.011(d) and (e), Finance Code;

- 1 (2) Sections 31.203 and 181.203, Finance Code;
- 2 (3) Section 396.001(8), Finance Code;
- 3 (4) Sections 396.052 and 396.053, Finance Code;
- 4 (5) Subchapters C and D, Chapter 396, Finance Code;
- 5 (6) Section 396.201, Finance Code;
- 6 (7) Subchapter G, Chapter 396, Finance Code;
- 7 (8) Section 711.0381(a), Health and Safety Code; and
- 8 (9) Subchapter C-1, Chapter 711, Health and Safety
9 Code.

10 SECTION 49. Section 154.104, Finance Code, as amended by
11 this Act, and Sections 712.0036 and 712.0037, Health and Safety
12 Code, as amended by this Act, apply only to a permit or certificate
13 of authority issued or renewed on or after September 1, 2019. A
14 permit or certificate of authority issued or renewed before that
15 date is governed by the law in effect immediately before the
16 effective date of this Act, and the former law is continued in
17 effect for that purpose.

18 SECTION 50. (a) On the effective date of this Act, a
19 certificate of registration that was issued under Section 396.106,
20 Finance Code, a certificate that was issued to operate in this state
21 under Section 396.152, Finance Code, or a registration that was
22 issued under Subchapter C-1, Chapter 711, Health and Safety Code,
23 expires.

24 (b) The repeal of a law by this Act does not entitle a person
25 to a refund of an application, registration, or other fee paid by
26 the person before the effective date of this Act.

27 SECTION 51. The changes in law made by this Act do not

1 affect the validity of a disciplinary action or other proceeding
2 that was initiated before the effective date of this Act and that is
3 pending before a court or other governmental entity on that date.

4 SECTION 52. (a) A violation of a law that is repealed by
5 this Act is governed by the law in effect on the date the violation
6 was committed, and the former law is continued in effect for that
7 purpose.

8 (b) For purposes of this section, a violation was committed
9 before the effective date of this Act if any element of the
10 violation occurred before that date.

11 SECTION 53. This Act takes effect September 1, 2019.